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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

DOLORES GRANILLO, ALBERT
GRANILLO, and DESIREE NAVA,
individually, and on behalf of a class of
similarly situated individuals,

Plaintiffs,

v.

FCA US LLC, a Delaware limited liability
company, and DOES 1-10, inclusive,

Defendants.

Case No. 5:15-cv-02017

NOTICE OF REMOVAL

1 Defendant FCA US LLC, pursuant to 28 U.S.C. §§ 1441 and 1453, hereby
2 removes this case to this Court. This Court has jurisdiction under
3 28 U.S.C. § 1332(d)(2).

4 I. BACKGROUND

5 1. On July 28, 2015, Plaintiffs Dolores Granillo, Albert Granillo, and
6 Desiree Nava (“Plaintiffs”) filed a Class Action Complaint in the Superior Court of
7 the State of California, San Bernardino County, known and numbered as *Dolores*
8 *Granillo, et al. v. FCA US LLC, et al.*, Case No. CIVDS-1510614.

9 2. FCA US was served with process and a copy of Plaintiffs’ Complaint
10 on September 11, 2015. No other pleadings, process, or orders have been served or
11 entered. A copy of the Complaint and process served on FCA US are attached
12 hereto as Exhibit 1. *See* 28 U.S.C. § 1446(a).

13 A. Allegations In The Complaint.

14 3. Plaintiffs own model-years 2014 (Nava) and 2015 (Granillos) Jeep
15 Cherokee vehicles. *See* Complaint, ¶¶ 22, 33. They bring claims based on
16 allegations that the “ZF 9HP Automatic Transmission” installed in each of their
17 vehicles has a defect. *See* Comp. According to Plaintiffs, the “ZF 9HP Automatic
18 Transmission contains one or more design and/or manufacturing defects” which
19 result in a host of symptoms including difficulty in shifting, noisy shifting, harsh
20 engagement of gears, sudden acceleration and deceleration, loss of power,
21 premature transmission wear, and transmission failure. *Id.* at ¶ 8.

22 4. Plaintiffs are residents of Hesperia (Granillos), and Oceanside (Nava)
23 California. *Id.* at ¶¶ 22, 32. They allege that, within a few months of purchase,
24 their vehicles manifested shifting, transmission noise, acceleration, “jerking”
25 and/or transmission shut-down issues. *Id.* at ¶¶ 27-29, 37-38.

26 5. Based on these core allegations, Plaintiffs assert claims for: violation
27 of the Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.*; violation of
28

1 the Unfair Competition Law, Business and Professions Code § 17200, *et seq.*;
 2 breach of implied warranty pursuant to the Song-Beverly Consumer Warranty Act,
 3 Cal. Civ. Code §§ 1791.1, *et seq.*; breach of warranty under the Magnuson-Moss
 4 Warranty Act, 15 U.S.C. § 2303 *et seq.*; breach of express warranty under Cal.
 5 Comm. Code § 2313; and unjust enrichment. *See Comp.*, ¶¶ 82-156.

6 6. Plaintiffs bring their claims on behalf of themselves and a class of
 7 persons defined as: “All individuals residing in the State of California who
 8 purchased or leased any FCA vehicle equipped with a ZF 9HP Automatic
 9 Transmission.”¹ *Id.* at ¶ 74.

10 7. For relief, Plaintiffs seek, among other things, “a declaration that
 11 Defendant is financially responsible for notifying all Class Members about the
 12 defective nature of the ZF 9HP Automatic Transmission,” an injunction compelling
 13 FCA US to conduct a recall, “compensatory, exemplary, and statutory damages,”
 14 “a declaration that Defendant must disgorge, for the benefit of the Class, all or part
 15 of the ill-gotten profits it received from the sale or lease of its Class Vehicles,”
 16 “full restitution,” “attorneys’ fees and costs,” and “pre-judgment and post-judgment
 17 interest.” *Id.*, Prayer for Relief.

18 8. According to Plaintiffs, each of their individual claims, standing alone,
 19 “meets or exceeds the sum or value of \$25,000.” *Id.* at ¶ 134.

20 **B. Facts Related To Number of Class Members And Transmission Costs.**

21 9. There were more than 20,000 model-year 2014 and 2015 Cherokee
 22 vehicles sold or leased to individuals or businesses in the State of California having
 23 the same type of transmission as that installed in Plaintiffs’ vehicles. In addition,
 24 the same or similar transmission was installed in at least 10,000 other vehicles sold
 25 or leased to individuals or businesses in the State of California.

26
 27
 28 ¹Plaintiffs also plead claims on behalf of two sub-classes. *See Comp.*, ¶ 74.

1 10. The cost to replace a “ZF 9HP Automatic Transmission” in the State
2 of California is at least \$4,000, and depending on the vehicle, can be in excess of
3 \$5,000.

4 **II. GROUNDS FOR REMOVAL**

5 11. This Court has jurisdiction of this case under 28 U.S.C. § 1332(d)(2),
6 commonly referred to as the Class Action Fairness Act (“CAFA”).

7 12. Pursuant to CAFA, when the number of putative class members
8 exceeds 100, this Court has original jurisdiction over “any civil action in which the
9 matter in controversy exceeds the sum or value of \$5,000,000, exclusive of
10 interests and costs, and is a class action in which ... any member of a class of
11 plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C.
12 § 1332(d)(2).

13 13. “A defendant’s notice of removal need include only a plausible
14 allegation that the amount in controversy exceeds the jurisdictional threshold.”
15 *Dart Cherokee Basin Operating Co., LLC v. Owens*, – U.S. –, 135 S.Ct. 547, 551
16 (2014).

17 14. Plaintiffs are citizens of the State of California. *See* Comp., ¶¶ 22, 32.
18 FCA US is a citizen of the State of Delaware under whose laws it was organized
19 and the State of Michigan where it has its principal place of business. Thus, the
20 minimal diversity requirements of CAFA are satisfied. *See* 28 U.S.C.
21 § 1332(d)(2)(A).

22 15. There are more than 100 members of the putative class as required by
23 28 U.S.C. § 1332(d)(2)(5)(b). Plaintiffs purport to represent “[a]ll individuals
24 residing in the State of California who purchased or leased any FCA vehicle
25 equipped with a ZF 9HP Automatic Transmission.” *See* Comp., ¶ 74. There are
26 more than 30,000 individuals fitting within this class definition.

1 16. The amount put into controversy by Plaintiffs' claims for relief far
2 exceeds the sum or value of \$5,000,000, exclusive of costs and interest. Plaintiffs
3 do not specify the exact remedy they are seeking but allege that the transmissions
4 at issue have significant, inherent defects which can result in transmission failure,
5 making clear that Plaintiffs may seek to have the transmissions completely
6 replaced. *See Comp.*, ¶ 8. Using even the low end cost of such a repair puts tens of
7 millions of dollars into controversy.

8 17. Furthermore, Plaintiffs seek "a declaration that Defendant is
9 financially responsible for notifying all Class Members about the defective nature
10 of the transmission," "compensatory, exemplary, and statutory damages," and "a
11 declaration that Defendant must disgorge, for the benefit of the Class, all or part of
12 the ill-gotten profits it received from the sale or lease of its Class Vehicles." Such
13 relief would have to average only \$167 per putative class member in order to
14 satisfy the \$5,000,000 in controversy requirement ($\$167 \times 30,000 = \$5,010,000$).
15 And, notably, according to Plaintiffs the amount in controversy for each of their
16 own individual claims "meets or exceeds the sum or value of \$25,000." *See*
17 *Comp.*, ¶ 134.

18 18. It is clear that the relief sought by Plaintiffs and the putative class
19 easily exceeds the jurisdictional threshold of \$5,000,000.

20 19. Because there is minimal diversity, greater than 100 putative class
21 members, and the matter in controversy exceeds the sum of \$5,000,000, this Court
22 has jurisdiction under 28 U.S.C. § 1332(d)(2).

23 20. No statutory exception to CAFA jurisdiction applies in this case.

24 **III. REMOVAL IS PROPER AND TIMELY**

25 21. This Notice of Removal is filed within thirty days of
26 September 11, 2015, the date on which FCA US was first served with a summons
27 and the Complaint. Thus, it is timely filed.
28

1 22. FCA US will promptly file a copy of this Notice of Removal with the
2 clerk of the Superior Court of the State of California, San Bernardino County, and
3 provide written notice of the removal to all counsel of record.

4 23. The United States District Court for the Central District of California,
5 Eastern Division, embraces the county and court in which Plaintiffs filed this case.
6 28 U.S.C. § 84(c). Therefore, this action is properly removed to this Court
7 pursuant to 28 U.S.C. § 1441(a).

8 WHEREFORE, the above described action now pending against
9 FCA US LLC in the Superior Court of the State of California, San Bernardino
10 County, is removed to the United States District Court for the Eastern District of
11 California.

12
13 Dated: September 30, 2015

THOMPSON COBURN LLP

14 By: /s/ Rowena Santos

15 Rowena Santos
16 Kathy A. Wisniewski
17 John W. Rogers

Attorneys for FCA US LLC

CERTIFICATE OF SERVICE

STATE OF CALIFORNIA,

COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California; I am over the age of 18 and not a party to the within action; my business address is 2029 Century Park East, 19th Floor, Los Angeles, California 90067.

On September 30, 2015, I served the foregoing document(s) described as:

NOTICE OF REMOVAL

on the interested parties to this action as follows:

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Granillo, and Desiree Nava*

☒ **(BY CM/ECF NOTICE OF ELECTRONIC FILING)** I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 30, 2015, at Los Angeles, California.

/s/ Lauren A. Stevens
Lauren A. Stevens